IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS MARSHALL DIVISION

COBBLESTONE WIRELESS, LLC, Plaintiff, v. T-MOBILE USA, INC. Defendant, NOKIA OF AMERICA CORPORATION, ERICSSON INC. Intervenors.	<pre> § § § CASE NO. 2:22-cv-00477-JRG-RSP § (Lead Case) § § JURY TRIAL DEMANDED § § § § § § § § § § § § § § § § § §</pre>
COBBLESTONE WIRELESS, LLC, Plaintiff, v. AT&T SERVICES INC.; AT&T MOBILITY LLC; AT&T CORP., Defendants, NOKIA OF AMERICA CORPORATION, ERICSSON INC. Intervenors.	\$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ CASE NO. 2:22-cv-00474-JRG-RSP \$ \$ (Member Case) \$ \$ JURY TRIAL DEMANDED \$ \$ \$ \$ \$
COBBLESTONE WIRELESS, LLC, Plaintiff, v. CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, Defendant, NOKIA OF AMERICA CORPORATION, ERICSSON INC. Intervenors.	\$ \$ \$ \$ \$ \$ \$ \$ \$ \$ CASE NO. 2:22-cv-00478-JRG-RSP (Member Case) \$ JURY TRIAL DEMANDED \$ \$ \$ \$

<u>DEFENDANTS' AND INTERVENORS' REPLY TO PLAINTIFF'S RESPONSE TO MOTION FOR SUMMARY JUDGMENT REGARDING 361 PATENT (DKT. NO. 152)</u>

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To survive summary judgment, Cobblestone must point to something in the Accused Products that changes the direction of the subframes. Knowing BWP adaptation does not change the direction of the subframes, Cobblestone sets forth a plethora of brand-new undisclosed claim construction and infringement theories in its Response (Dkt. No. 181). None of the arguments proffered by Cobblestone give rise to a material issue of fact precluding summary judgment.

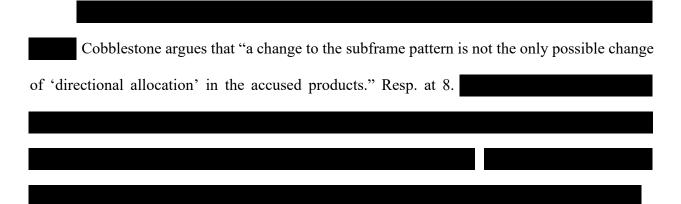
I. Cobblestone Has Not Identified Any Facts That Generate a Dispute as to the "Updated Directional Allocation" Limitation.

In other

words, Cobblestone has no evidence that a scheduler can change a resource from uplink to downlink or vice versa depending on what type of bandwidth part is selected. For this reason alone, the Motion should be granted, but the following addresses Cobblestone's additional arguments.

There is no evidence that a slot within a bandwidth part can have an updated directional allocation. Cobblestone alleges that the Motion failed to address Dr. William's opinions regarding how bandwidth part switching leads to a change in which slots are allocated to a UE. This fact is irrelevant because switching between BWPs does nothing to the *direction* of the resources. Mot. (Dkt. No. 152) at 9-10. Each individual BWP is either an uplink bandwidth part or a downlink bandwidth part. Mot. at 10 (citing Ex. B to Mot. (Williams Dep. Tr.) at 110:18-22; see also Ex. C to Mot. (Williams Rpt., App'x A) at ¶ 817, 887, 892). Thus, while changing between bandwidth parts may switch which slots within a downlink subframe are used, the switch cannot change which slots can be used for downlink or which can be used for uplink. Instead, a downlink BWP can only be allocated within a subframe in TDD that has been designated as a downlink subframe, and an uplink BWP can only be allocated in an uplink subframe. Dkt. No. 152-2 (Ex. B (Williams Dep. Tr.)) at 97:21-98:11. Thus, the undisputed evidence shows that BWP

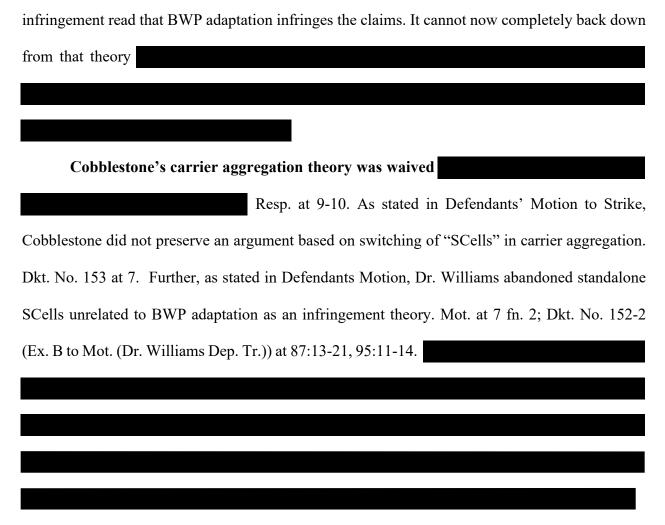
adaptation does not dictate which subframes are available for uplink and which are available for downlink, and Dr. Williams's theories related to slots are irrelevant. Mot. at 10.



As preliminary matter, this is a new theory that was not disclosed in Cobblestone's contentions or expert reports. Resp. at 9 (citing only Defendants' expert reports). Moreover, there is no evidence or testimony that a POSITA would consider a gNB reset to be an updated directional allocation.

Accordingly, Cobblestone's attempt to manufacture a factual dispute again fails.

Moreover, a gNB reset cannot satisfy the claims. The claims require an initial directional allocation and then an updated directional allocation. The reason for this two-stage directional allocation is that the problem the '361 Patent was solving was inefficient use of fixed directional resources in TDD. Mot. at 3-4. The '361 Patent purports to address this prior art TDD problem by providing for an "adaptive" resource allocation scheme that does not use these fixed uplink/downlink configurations. Dkt. No. 152-1 (Ex. A to Mot. ('361 Patent)) at Title; Dkt. No. 152-3 (Ex. C to Mot. (Williams Rpt., App'x A)) at ¶ 49. Cobblestone argues that "[a]ttempting to require that the updated directional allocation be caused by bandwidth part adaptation" is improper. Resp. at 9. *But that is Cobblestone's theory*. Cobblestone is the party that set forth the



II. It Is Undisputed that the Uplink Downlink Configuration Within a Frame Are Fixed and Thus There Is No "Shared Resource Pool"

First, Cobblestone's Response mischaracterizes the Court's construction of "shared resource pool." The Court construed the term to mean "a pool containing one or more frequency spectrum resources that can be scheduled for either uplink or downlink channels." Dkt. 131 at 24. The Court explained that its construction did "not mean the 'shared resource pool' might contain resources that are limited to use only for downlink transmission or only for uplink transmission" because "[t]hat would eviscerate the notion of the resources being 'shared' with the uplink and downlink resource pools as needed." Dkt. 131 (Markman Order) at 23. Cobblestone must show a frequency resource that is available for downlink transmission or uplink transmission.

Cobblestone's tortured interpretation of the Court's construction should be rejected.

Cobblestone effectively argues that, because every frequency in a TDD system is used for uplink and downlink (just not at the same time), that every frequency is a shared resource pool, and that the claims could even cover "prior art TDD patterns." Resp. at 6. Cobblestone ignores that the Court's construction and the term "frequency spectrum resource" require an identification within a frequency of resources that can be assigned to uplink and downlink. Dkt. 131 (*Markman* Order) at 23. The '361 Patent proposed changing how prior art TDD schemes functioned. Mot. at 3-6. In the prior art schemes, the uplink and downlink time resources within each frequency were fixed as either uplink or downlink based on an uplink/downlink configuration. *Id.* The '361 Patent's shared resource pool, however, allowed the dynamic allocation of resources to uplink or downlink based on the updated directional allocation. *Id.* Thus, Cobblestone's argument that the claims cover "prior art TDD patterns" is incorrect.

Cobblestone's S-Frame theory is waived and irrelevant. Cobblestone also argues that the "S" subframe is a shared resource pool because it contains both uplink and downlink fields within a single subframe. This idea is found nowhere in Dr. Williams's report or Cobblestone's contentions, and thus Cobblestone has waived such argument. Tellingly, Cobblestone cites only *Defendants' expert* for the facts needed to make the argument. Resp. at 4 (repeatedly citing Ex. E, which is Dr. van der Weide's report).

Nothing in its contentions or offered by

Dr. Williams preserved an argument that an S-Frame is the shared resource pool.

Even in an S-Frame, it is undisputed that the uplink and downlink resources are fixed.

While an S-Frame has uplink and downlink resources within a single sub-frame, there is no

evidence	that	each	resour	ce w	ithin	an	S-Fran	ne car	be	assign	ned to	uplink	and	downl	ink.	
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III. Conclusion

For the forgoing reasons, Defendants respectfully request that this Court grant the Motion.

Dated: July 25, 2024 Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served by e-mail on July 25, 2024 on all counsel who have consented to electronic service.

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